



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,936	01/30/2004	Jeffrey Herman	VOI0289.US	8513

7590

08/29/2006

Todd T. Taylor
TAYLOR & AUST, P.C.
142 S. Main St.
P.O. Box 560
Avilla, IN 46710

EXAMINER

HUG, ERIC J

ART UNIT	PAPER NUMBER
----------	--------------

1731

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/768,936	Applicant(s) HERMAN ET AL.	
	Examiner Eric Hug	Art Unit 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004 and 11 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 19-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 18 and 41-49 is/are rejected.
- 7) ☒ Claim(s) 14-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1731

DETAILED ACTION

Election/Restrictions

Applicant's election of claims 1-18 and 41-49 in the reply filed on July 11, 2006 is acknowledged.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 41, 42, 48, and 49 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 2, 8, and 9 of copending Application No. 10/768,486. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4, 8, 9, 41-44, 48, and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Crook (US 6,712,940).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Crook discloses a papermachine belt comprising a woven fabric layer of warp and weft yarns, a batt layer, and a fusible and porous thermoplastic polyurethane membrane (re: claims 1, 4, 41 and 44). The woven fabric reads on the claimed woven permeable layer and the thermoplastic membrane reads on the claimed polymeric layer. The whole structure is needled together (re: claims 2, 42). Figure 3 shows the membrane and woven fabric with two batt layers, one atop the membrane (31) and one between the membrane and the woven fabric (re: claims 3, 43). See column 3, lines 19-30. The fabric is fused (i.e., melted, re: claims 8, 48, see

Art Unit: 1731

column 2, lines 19-20; column 3, lines 31-37). Reinforcing yarns can support the thermoplastic membrane (re: claims 9, 49, see column 4, lines 18-23; Figure 7). It is further noted that the belt may comprise a foraminous plastic membrane (61, see Figure 7) which also reads on the claimed polymeric layer connected to a permeable fabric.

A machine comprising a press roll in conjunction with the belt is shown in Figure 2. The web W is conveyed between the belt 20 and press felt 21 and through the press nip formed by rolls N1, N2.

2. Claims 1, 2, 8, 41, 42, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Beaumont et al (US 3,399,111).

Beaumont discloses a permeable supplemental belt to be used with a web carrying belt in a paper machine. One embodiment comprises a woven fabric and a perforated polyester film laminated or adhesively bonded to the woven fabric (re: claims 1, 8, 41, 48; see Figure 14 and column 13, lines 2-10). Additionally, a fibrous batt may be needled thereto (re: claims 2, 42, see column 13, lines 20-34).

3. Claims 1-4 and 41-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Watanabe (US 6,716,318).

Watanabe discloses a papermaking press felt comprising a woven base body, a fibrous batt layer, and a polymeric rewetting prevention layer all connected together by needling. The rewetting layer is apertured. Figure 1 shows a batt layer 20 atop the overall fabric and in between rewetting prevention layer 40 and woven layer 30. However, the rewetting prevention

Art Unit: 1731

layer may instead be in direct contact with the woven base (column 3, lines 9-13). The combination of woven base, batt, and apertured rewetting prevention layer reads on the woven permeable fabric, batt, and polymeric layer having openings (re: claims 1-3, 41-43). The polymer may be polyurethane (re: claims 4, 44, column 3, line 33-37).

4. Claims 1-9 and 41-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Jeffrey (US 6,436,240).

Jeffrey discloses clothing for a paper machine comprising at least two perforated polymeric membrane layers and at least one batt fiber layer needled to the membrane layers. Preferably at least one membrane layer contains parallel reinforcing yarns extending in at least one direction. The base fabric may contain one or more woven base cloth layers either between or on an outer face of the membrane layers (column 1, lines 50-60). The combination of a polymeric membrane layer with reinforcing yarns, batt, and woven base reads on claims 1-3, 9, and 41-43 and 49. At least one of the membrane layers can be polyurethane (re: claims 4, 44, column 2, lines 11-13, 63-65). A membrane layer may be a square or rectangular mesh that is reinforced with yarns in land areas (re: claims 5-7, 45-47, column 2, lines 13-20). Layers can be fused or adhesively secured (re: claims 8, 48, column 2, lines 21-23).

5. Claims 1, 8, 10-13, 18, 41 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Beck (US 6,616,812).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C.

Art Unit: 1731

102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Beck discloses an anti-rewet fabric comprising an air distribution layer in the form of a woven fabric and perforated film layer which are laminated together. See Figures 3 and 4, and see column 3, lines 52-65 to column 4, line 10. The anti-rewet fabric corresponds to the dewatering fabric of claims 1, 8, 41, and 48. Regarding claims 10-13 and 18, a press unit using the anti-rewet fabric is shown in Figure 1. In Figure 1, there is a fiber web 12, an air press 14, a first fabric 18, and a second fabric 20. Air press 14 includes an enclosure 28. Second main roll 24 acts as a counter element for enclosure 28. Second main roll 24 is a vented roll connected to a source of suction in order to promote drainage therethrough. Enclosure 28 and second main roll 24 define an air press chamber 30 which has a pressurized fluid or gas therein. The first fabric 18, second fabric 20, and paper web 12 are conveyed through the enclosure.

Allowable Subject Matter

Claims 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

The claims are allowable for providing that the press apparatus (including the dewatering fabric, vacuum roll, web, and other fabric in claimed arrangement) is a belt press.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Paquin (US 6,350,336) discloses a laminated press fabric which may comprise both a woven base fabric and a perforated polymeric layer.

Jeffery et al (US 5,342,486) discloses papermaking fabrics having a polymeric grid structure reinforced with yarns.

Eklund et al (US 5,232,768) discloses a press fabric having an apertured polymeric layer.

Gaisser (US 5,114,777) discloses a papermaking fabric comprising a woven base fabric and an embossed polymeric resin layer with perforations.

Andresen (US 4,772,504) discloses a press fabric having an outer permeable thermoplastic layer.

Buchanan et al (GB 2254288) discloses thermoplastic membrane layers in a grid shape which are reinforced with yarns. The membrane layers are used in papermaking fabrics.

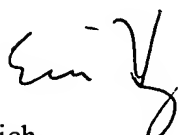
Scherb (US 6,780,282), Creagan (US 4,948,467), Karvinen (US 4,464,226), Emson (US 3,974,026), Busker (US 3,798,121) and Martin (US 3,293,121) disclose various pressing arrangements that utilize belts and suction rolls.

Art Unit: 1731

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Hug whose telephone number is 571 272-1192.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


jeh